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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,056	01/28/2004	William T. Presley	706664US1	2305

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EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/766,056

Applicant(s)

PRESLEY ET AL.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 10, 20, 118. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because in Figure 5, reference number "155" should apparently be "156" to correspond with the lower portion of the slot as disclosed in the specification and the pin 158 should perhaps be shown at this lower portion 156 since the seat appears to be in the lowered floor height configuration (for the donut). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended

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drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 100, 110, 148. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “electro-mechanical mechanism” of claims 9, 10, and 12 and the “cargo” of claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:

On page 3, [0021], lines 3-4, “front support bracket 162” should apparently be “front support bracket 160”. Also online 4, “slot 152” should be “slot 154”.

On page 4, [0022], line 2, “slot 152” should be “slot 154”.

Appropriate correction is required.

Claim Objections

6. Claim 11 is objected to because of the following informalities: on line 6, “load floor” should apparently be “load floor system” as previously recited at line 2.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 9-10 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claimed subject matter for which the specification is not enabling is the “electro-mechanical mechanism”. The specification is not enabling for this recited feature since there is no mention or description of the specifics of this feature in the disclosure.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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10. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Spykerman et al. in view of Liu et al.

For claim 11, Spykerman et al. disclose a motor vehicle having a cargo area over an in-floor recess for storing a spare wheel and tire (Figure 5), a multiple height load floor system 27 for covering the in-floor recess, providing one of two depths for the recess, the floor system adapted to allot a lesser volume to the in-floor recess for use with an undersized spare, or a greater volume for a full-size spare, and a folding seat 14 adapted to be selectively raised or lowered to align with the upper surface of the load floor system, whereby the seat and load floor system present a substantially flat surface for carrying cargo.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 1-2 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spykerman et al. in view of Liu et al.

Spykerman et al. (6,290,277) disclose a motor vehicle having an in-floor recess 32, a multiple height load floor system comprising: a folding seat assembly 14 adjacent the in-floor recess and adapted for folding to a load floor configuration at one elevation relative to a vehicle datum; and a load platform 27, 28 configured for covering the in-floor recess and being supported over the in-floor recess at the one elevations and also at a second elevation, whereby the folding seat assembly and the load platform adjoin to form a substantially continuous load floor at the one elevation.

With regard to claim 2, the load platform comprises a low floor surface and an opposing high floor surface.

With regard to claim 6, the two elevations comprise a low elevation and a high elevation.

With regard to claim 7, the low floor surface is directed upwardly at the low elevation .

With regard to claim 8, the load platform is supported by a sill surrounding the in-floor recess.

Spykerman et al. lack the seat assembly adapted for folding to a load floor configuration at the second elevation.

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Liu et al. teach a seat assembly adapted for folding to a load floor configuration at two elevations (one at Figure 3 and a second at Figure 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have adapted the seat assembly of Spykerman et al. to have folded to a load floor configuration at a second elevation as taught by Liu et al. in order to allow the load platform and the seat assembly to form a substantially continuous load floor at two elevations.

14. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spykerman et al., as modified, as applied to claim 2 above and further in view of Seel et al. (6,247,741).

Spykerman et al. lack the load platform comprising a plurality of support legs supporting the load platform over the in-floor recess and being disposed opposite the high floor surface.

Seel et al. teach a motor vehicle having an in-floor recess 3, a multiple height load floor system comprising: a load platform 4, 10 configured for covering the in-floor recess and being supported over the in-floor recess at two elevations (Figures 3 and 4). The load floor platform further comprises a low floor surface (exposed in Figure 4) and a high floor surface (exposed in Figure 3). In addition a plurality of support legs 9 are provided for supporting the load platform over the in-floor recess (Figure 3) and are disposed opposite the high floor surface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided support legs as taught by Seel et al. upon the load

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platform of Spykerman et al. opposite the high floor surface thereof in order to provide additional support of items placed thereon.

15. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spykerman et al., as modified, as applied to claims 1 and 8 above and further in view of Liu et al.

Spykerman et al., as modified, lack the seat assembly comprising an electro-mechanical mechanism for adjusting between the two elevations.

Haglund teaches a seat assembly with an electro-mechanical mechanism for movement thereof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided and an electro-mechanical mechanism as taught by Haglund upon the seat assembly of Spykerman et al., as modified, in order to provide an occupant with quick and convenient ease of movement of the seat assembly.

16. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spykerman et al., as modified, as applied to claim 11 above and further in view of Liu et al.

Spykerman et al. lack the seat assembly comprising an electro-mechanical mechanism for adjusting between the two elevations.

Haglund teaches a seat assembly with an electro-mechanical mechanism for movement thereof.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided an electro-mechanical mechanism as taught by Haglund upon the seat assembly of Spykerman et al. in order to provide an occupant with quick and convenient ease of movement of the seat assembly.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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19. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

or faxed to:

(703) 872-9326, (for formal communications intended for entry)

or:

(703) 746-3515, (for informal or draft communications, please clearly

label "PROPOSED" or "DRAFT").



Hilary Gutman
August 18, 2004